**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929**

**WP(C).No. 32712 of 2007(T)**
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**AGAINST THE ORDER IN EP 89/2007 IN OS.38/2000 of MUNSIFF COURT-II,KOZHIKODE-II**

**.....**

**PETITIONERS:**
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1. **PREMAVATHI, D/O UNIKOTH BALAN, AGED 60 YEARS, RESIDING AT AMMU NIVAS, POST, ARAKINAR, NADUVATTOM, KOZHIKODE - 673028.**

2. **DAYANANDAN, S/O UNIKOTH BALAN, AGED 57 YEARS, RESIDING AT AMMU NIVAS, POST, ARAKINAR, NADUVATTOM, KOZHIKODE - 673028.**

3. **PRABHAVATHI, D/O UNIKOTH BALAN, AGED 54 YEARS, RESIDING AT AMMU NIVAS, POST, ARAKINAR, NADUVATTOM, KOZHIKODE - 673028.**

4. **SUSHEELA, D/O UNIKOTH BALAN, AGED 52 YEARS, RESIDING AT AMMU NIVAS, POST, ARAKINAR, NADUVATTOM, KOZHIKODE - 673028.**

**BY ADV. SRI.P.K.SURESH KUMAR**
**SRI.P.A.HARISH**

**RESPONDENTS:**
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1. **UNIKOTH AYYAPPUTTY, S/O SANKARAN, AGED 78 YEARS, RESIDING AT UNIKOTH HOUSE, NAKKAM THODI PARAMBA, POST, ARAKKINAR, NADUVATTOM, KOZHIKODE 673028.**

2. **SADANANDAN, S/O UNIKOTH BALAN, AGED 57 YEARS, RESIDING AT UNIKOTH HOUSE, POST, ARAKINAR, NADUVATTOM, KOZHIKODE - 673028.**

**BY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N. KRISHNAN, J.**

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**W.P.C. NO. 32712 OF 2007**

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**Dated this the 2nd day of November, 2007.**

**J U D G M E N T**

This writ petition is filed seeking to set aside the order passed on 18.10.07 directing to effect delivery of the property by 3.11.07 and to report to the Court by 5.11.07. The execution is in pursuance of a final decree passed by the Court below. An appeal was preferred before the District Court and a stay was obtained from the District Court. The District Court made over the case to the Subordinate Judge and there the matter is posted to 27.11.07. An application for stay is filed in that case and it is pending enquiry therein. Considering the materials available before this Court, I feel the writ petitioner must be given a breathing time and therefore I direct the executing Court not to effect delivery, if it is not effected till 3.45 p.m. on 2.11.07, and if delivery is

already effected not to record the delivery until an order is passed in the stay application pending before the Subordinate Judge's Court.

The writ petition is disposed of accordingly.

**M.N. KRISHNAN, JUDGE.**

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